

China Human Rights and Rule of Law Update

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United States Congressional-Executive Commission on China

Senator Chuck Hagel, Chairman | Representative Jim Leach, Co-Chairman

Announcements

CECC 2005 Annual Report In HTML Format, Chinese Version of Executive Summary Posted

The Congressional-Executive Commission on China has prepared a version of its 2005 Annual Report in [HTML format](#). In addition, the Congressional-Executive Commission on China has prepared a [Chinese language version](#) of its 2005 Annual Report Executive Summary.

Translation: Compulsory Patent Measures

The Congressional-Executive Commission on China has prepared a translation of the [Measures for Carrying Out Compulsory Licensing of Patents on Issues Involving Public Health](#).

Translation: Local Regulations

The Congressional-Executive Commission on China has prepared a translation of the [Circular Regarding the Program to Submit Proposals to the City Government's 2006 Plan for Drafting Regulatory Documents](#) issued by the Changzhou City People's Government. For more information on this circular, see "Changzhou City Government Adopts WTO-Inspired Transparency Measure" below.

Update on Rights and Law in China

[Human Rights Updates](#) [Rule of Law Updates](#) [All Updates](#)

Reporters Without Borders Gives Zhao Yan 2005 Press Freedom Award

Reporters Without Borders awarded its [2005 Fondation de France Prize](#) on December 7 to Zhao Yan, a researcher for the Beijing bureau of The New York Times. Zhao received the prize for being one of the "journalists who, through their work, attitude or principled stands, have shown a strong commitment to press freedom."

Agents from the Ministry of State Security (MSS) [detained](#) Zhao on September 17, 2004, and authorities formally arrested him in October 2004 for "providing state secrets to foreigners." In June 2005, the Ministry of Foreign Affairs (MFA) [confirmed](#) that on May 20 authorities had transferred his case to the Beijing procuratorate for prosecution both for providing state secrets to foreigners and for fraud. By invoking several legal exceptions, authorities had already [extended](#) Zhao's pre-trial detention to seven months, the maximum allowed under Article 127 of the [Criminal Procedure Law](#) (CPL). Moreover, adding a new charge allowed them to invoke Article 128 of the CPL to further extend Zhao's period of "legal" pre-trial detention. On July 9, prosecutors returned the case to the MSS for another month of investigation, which some legal scholars [interpret as an indication](#) that the procuratorate does not consider the evidence submitted by investigative agencies as sufficient to issue an indictment. The MSS recommended to the procuratorate that Zhao be indicted, noting that he should receive a harsher sentence since he has neither confessed nor cooperated with the investigation.

During a regularly scheduled press conference on December 8, MFA spokesperson Qin Gang said "Zhao Yan is currently the subject of an investigation by China's judicial authorities. To award him with such a prize at this time, doesn't that constitute interference with China's judicial authorities' handling of the case?" according to a BBC [report](#) (in Chinese) on the same day. Reuters also [quoted](#) Qin as saying "I've told you what crimes he committed and what his circumstances are now, and for a so-called human rights organization to honor him as a hero of freedom -- what's the goal or intent behind that?" But the [transcript](#) of the press conference posted on the MFA Web site mentioned neither Zhao Yan nor the award.

U.S. officials included Zhao's name in a list of prisoners prepared for U.S. President George W. Bush's meetings with Chinese President Hu Jintao at the United Nations in September 2005, according to an October 5 Washington Post [article](#), and again when the President visited China in November, according to a December 7 [article](#) in the New York Times. In addition, several senior U.S. government officials, including Secretary of State Condoleezza Rice and former Secretary of State Colin Powell, have raised Zhao's case with Chinese authorities, [according to a State Department official](#). In August, Professor Jerome A. Cohen, an expert on the Chinese legal system whom the New York Times has retained to assist with Zhao's defense, [expressed concern](#) that authorities may have illegally acquired a key piece of evidence that they intend to use in their case against Zhao.

Supreme People's Court Calls for Hearings in Death Penalty Appeals

The Supreme People's Court (SPC) has called on provincial high courts to conduct hearings for all death sentence appeals beginning next year, according to a December 8 [article](#) in Xinhua. The SPC issued a [Circular Regarding Further Improving Open Court Session Work in Second Instance Death Penalty Cases](#) (translated by CECC staff) on December 7. The circular follows SPC President Xiao Yang's [announcement in late October](#) that the SPC would consolidate and reclaim its power over death penalty review as part of a Second Five-Year Reform Plan for China's courts. Court officials characterized both reforms as necessary to carry out the Second Five-Year Reform Plan's goals of ensuring greater fairness and caution in the death penalty review process.

The circular reaffirms the appeals procedure set forth under Article 187 of the [Criminal Procedure Law](#) (CPL), and explicitly incorporates these procedures into the death penalty review process. The circular calls on high courts to continue conducting hearings in cases that are appealed by a people's procuratorate. (Pursuant to Article 181 of the CPL, a local people's procuratorate may appeal a case whenever it "considers that there is some definite error in a judgment or order of first instance.") At the same time, it newly requires high courts to institute a similar procedure for death penalty appeals not initiated by the procuratorate. Beginning on January 1, 2006, high courts are to conduct hearings in death penalty cases where "significant factual and evidentiary issues give rise to an appeal." Beginning in the second half of 2006, high courts are to extend the use of hearings to all death penalty cases on appeal. These new requirements exceed the protections set forth under the CPL, which creates an exception to the hearing requirement where "after consulting the case file, interrogating the defendant and heeding the opinions of the other parties, defenders and agents ad litem, [a court] thinks the criminal facts are clear." In a December 7 [press statement](#) to the Beijing-based China News Agency, an SPC representative clarified that "in an appeals case in which the facts are clear, failure by a people's court to open a court session does not violate the provisions of the CPL." However, he argued that death penalty appeals should become an exception to that rule due to the severity of the punishment imposed.

In addition to establishing the substance of new legal requirements for death penalty appeals (that courts conduct hearings), the circular also helps establish how high courts can change current practices to fulfill those requirements. The death penalty review process in China typically involves a paper review of the case file, according to a November 3 [article](#) in the Beijing Review. Paragraph 3 of the circular requires that during the course of a hearing, the high court must focus on the reasons for the appeal and, towards that end, "conduct a comprehensive examination of the facts and applicable law adduced in the judgment of first instance." This "comprehensive examination" is clarified in Paragraphs 4 and 5, which require key witnesses and expert witnesses to appear in court, and call on high courts to "guarantee that public prosecutors and lawyers appear in court." The circular does not indicate whether the hearings should be open to the public, but Article 11 of the CPL sets forth a general requirement that "cases in the People's Courts shall be heard in public." Article 152 confirms that public access is mandatory for first instance cases, but CPL provisions governing cases of second instance do not include similar language.

The SPC representative emphasized in the press statement that "The death penalty is the most severe punishment depriving a criminal offender of life. When a people's court applies the death penalty, it must be even more careful, and absolutely cannot allow for mistakes." In a December 8 [report](#) in the Beijing News, Professor Zhou Daoluan of the National Judges College noted that review of death penalty cases in Beijing and Tianjin municipalities, and in Hebei province, revealed a high rate of error among lower courts. High courts found that in 90 percent of death penalty cases that they remanded and overturned, the trial court's conclusions on significant facts and evidence raised reviewable questions. Conclusions on significant facts and evidence posed a problem in 50 percent of the cases that the SPC remanded or overturned. A December 9 [article](#) in the China Daily quoted Zhou's analysis on the combined significance of the October announcement and December circular: "If the quality of first and second instance hearings can be ensured, it will reduce the workload in the review procedure." As Zhou told the Beijing News, "Requiring an open court session in all second instance death penalty cases is for the very purpose of providing a cushion for taking back the power of death penalty review." Scholars at the National Judges College [previously expressed concern](#) that returning the power of death penalty review to the SPC would significantly increase its workload. The SPC has already transferred hundreds of court personnel to its three new criminal tribunals for reviewing death penalty cases.

The circular focuses only on procedures for provincial high courts, and does not clarify how the SPC itself will conduct death penalty review. According to a November 3 [report](#) in the Beijing News, the SPC will soon issue a judicial interpretation to help settle open issues in the death penalty review process. In addition, the Beijing News reports that legislators have continued to work on revisions to the CPL and the 1983 [Organic Law of the People's Courts](#) (Organic Law), which authorized the SPC's original transfer of death penalty review to provincial high courts. For additional information on the Organic Law and the SPC's decision to transfer part of its power over death penalty review to provincial high courts, see [The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg: The Law, the Courts, and the Debate on Legality](#). For general information on capital punishment in China, see Section III(b), on the [Rights of Criminal Suspects and Defendants](#), in the CECC's 2005 Annual Report.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20060101&show=ALL#id33630>

Chinese-Installed Panchen Lama Pledges to Meet Communist Party Expectations

[Gyaltzen Norbu](#), the boy the Chinese government installed as the Panchen Lama, concluded a Buddhist ritual offering at the tombs of his predecessors by saying that he would "live up to the expectations of the Chinese Communist Party and the central government," according to a December 15 Xinhua [report](#). The ritual took place one week after the 10th anniversary of the December 8, 1995, ceremony at Tashi Lhunpo Monastery, in the Tibet Autonomous Region (TAR), where State Councilor Li Tieying presided over then five-year-old Gyaltzen Norbu's installation as Panchen Lama, according to the [China Tibet Information Center](#). Marking the anniversary, the teen-age Gyaltzen Norbu pledged to "be a good living Buddha who loves his motherland, his religion and serves his country and its people," according to a December 8 Xinhua [report](#).

The December 15 Xinhua article describes Gyaltzen Norbu as "the leader of Tibetan Buddhism," the December 8 report calls him "the highest ranking figure in Tibetan Buddhism," and a December 15 China Central Television (CCTV) news [report](#) used similar language. The Chinese media's new description of Gyaltzen Norbu as Tibetan Buddhism's leading figure is a departure from recent language. A September 2004 China Daily [article](#) calls Gyaltzen Norbu "the highest ranking figure of Tibetan Buddhism in China," a January 2005 People's Daily [report](#) says that he is "the highest-ranking figure of Tibetan Buddhism currently in China," and a June 2005 Xinhua [report](#) describes him as "the highest leader of Tibetan Buddhism in China."

The new language, by removing the limitation "in China," implies that Gyaltzen Norbu outranks the Dalai Lama, but Tibetan Buddhists, including those who live in China, regard the Dalai Lama as their spiritual leader. The Chinese media's new assertion that Gyaltzen Norbu is the top Tibetan Buddhist figure, and the highlighting of his expression of loyalty to the Chinese Communist Party (CCP) and government, occur as a renewed program of patriotic education is taking place in Lhasa area monasteries and nunneries, including [Drepung](#), [Sera](#), and [others](#). Monks and nuns must [comply with requirements](#) to denounce the Dalai Lama as a "separatist," agree that Tibet is a historical part of China, and accept the legitimacy of Gyaltzen Norbu as the reincarnation of the Panchen Lama instead of [Gedun Choekyi Nyima](#), the boy the Dalai Lama recognized in May 1995.

Chinese officials selected Gyaltzen Norbu as Panchen Lama by drawing lots from a golden urn, according to the December 8 Xinhua report. The report asserts that this is "a tradition in Tibetan Buddhism." The Qing Emperor issued a 29-article decree in 1793 demanding that the Tibetan government in Lhasa reform religious, administrative, economic, and military practices to suit the Qing court. The first edict directed that the Dalai Lama and Panchen Lama be selected by drawing lots from a golden urn, and that a high-ranking Chinese official must be present to confirm the result. Tibetans used their own methods, however, when they could, and identified the current Dalai Lama and his predecessor in accordance with Tibetan practices. Jampa Phuntsog (Qiangba Puncog), the Governor of the Tibet Autonomous Region (TAR), [told reporters](#) in Hong Kong last July that the next Dalai Lama will be identified by drawing lots from an urn, and denied that the CCP arranges the outcome. Article 27 of China's new [Regulation on Religious Affairs](#) incorporates the principle of the Qing directive.

See Section III(d) - "Freedom of Religion," [Religious Freedom for Tibetan Buddhists](#), of the CECC 2005 Annual Report for more information.

Beijing Court Announces Reform of Judicial Disciplinary System

Chi Qiang, President of the Beijing No. 1 Intermediate People's Court (IPC), announced the abolition of that court's responsibility system for wrongly decided cases, according to a November 21 newspaper [article](#) in The First. The system is described in the [Implementation Details for the Beijing No. 1 IPC's Responsibility System for Illegally Adjudicated Cases \(Trial\)](#), "which previously was used to discipline judges for cases overturned or altered on appeal. Court President Chi noted that the definition of a "wrongly decided case" is unclear in practice, and that the fear of sanctions harms the willingness of trial judges to decide cases independently. Chi said that his court will attempt to correct this problem by moving toward a disciplinary system that sanctions judges for illegal behavior rather than "incorrect" outcomes.

Many Chinese courts have adopted "responsibility systems for wrongly decided cases." Chen Youxi, Vice President of the Constitutional and Human Rights Committee of the All-China Lawyers Association (ACLA), noted that because such systems "have a direct impact on personal interests such as bonuses and benefits of those trial judges with high rates of overturned cases," trial judges "commonly resort to seeking advance guidance from higher courts before making a decision, and run to appeals courts to convince them not to overturn their verdicts," according to a December 7 Legal Daily [article](#). Chen also notes that official use of reversal rates to measure judicial performance creates problems, because reversals often hinge on interpretations of conflicting or unclear law rather than illegal or unethical conduct. Both articles and the "Judicial System" section of the Commission's [2004](#) and [2005](#) Annual Reports note that such systems encourage judges to violate the principles of openness and transparency in judicial decisionmaking.

Reform of the Beijing No. 1 IPC's responsibility system is a positive step, and Court President Chi describes its goal as to reduce the administrative nature of court work. But ACLA's Chen notes that the practical effect of the decision is uncertain because the Supreme People's Court (SPC) supports the use of this type of responsibility system. Moreover, Chi suggests in other remarks that the Beijing court may actually be strengthening top-down systems used to manage judicial behavior. Chi also said that trial judges will be held responsible for the "quality" of their individual decisions, and must also participate in resolving any post-decision complaints raised by parties, according to a November 22 [article](#) appearing on the Ministry of

Justice Web site. Similar SPC [announcements](#) appear to increase the responsibility of Chinese judges to respond to such petitions outside of ordinary appellate channels.

Government Acts Against House Church Protestants During November

The Chinese government during November 2005 detained Protestant house church leaders, removed house church leaders from Beijing, sentenced a house church leader to imprisonment, and censored news media coverage of President Bush's message supporting religious freedom during his November 19-21 visit to Beijing, according to a number of news sources.

- On November 18 officials detained house church leader Zhang Mingxuan and Zhang Chuang, his son, in Sheqi county, Henan province, according to a China Aid Association (CAA) [report](#). CAA is a U.S. NGO that monitors the religious freedom of Chinese Protestants. Officials released the pair on November 21, according to another CAA [report](#).
- On November 17, officials removed house church leaders Hua Huiqi and Wei Jumei from Beijing, taking them to Chengdu in Sichuan province, according to a CAA [report](#). On November 21, officials permitted the couple to return to Beijing but not to their home, according to another CAA [report](#).
- On November 8, the Beijing Haidian District People's Court [sentenced](#) Beijing house church pastor Cai Zhuohua and two of his relatives to prison for giving away Bibles.
- On November 6, officials [detained](#) six house church Protestant leaders in Nantan village, Wuquan town, Wuyang county in Henan province. Officials released four of the leaders by November 7. The detentions came during a meeting at a church that CAA sources believe to be part of the Fangcheng Mother Church (also known as the China for Christ Church), which may be one of the biggest house churches in China, according to a July 31 Telegraph (London) [report](#).
- On November 3, officials detained approximately 100 house church members and 8 house church leaders in Huangfu town, Shangcai county in Henan province, according to a China Aid Association [report](#). Officials reportedly tortured and injured two of the house church leaders, then released all of them on November 19, according to another CAA [report](#).
- AsiaNews characterized the Chinese news media as "[practically silent](#)" about President Bush's attendance at a Sunday service at the Protestant Gangwashi church in Beijing during his November 19-21 visit to China, covering it only in the English-language media, for example, in this November 22 China Daily [article](#).

Many of the Chinese government actions involved house church Protestants from Henan province, where the house church movement is particularly strong, a fact conceded by a [review](#) published by the Amity News Service, which communicates the views of China's state-controlled registered Protestant church. A number of recent detentions of house church Protestants have occurred in Henan, including a series of detentions in [May and June](#) and [July and August](#), and one detention in [October](#).

In addition, a Washington Post [article](#) speculated that the Chinese government may have intended actions against house church leaders in Beijing as a warning to house church Protestants not to attempt to meet with President Bush during his November 19-21 visit to China. Although the Chinese government in the past frequently released prisoners of conscience before or after visits of foreign heads of state or senior officials, authorities released [no prisoners of conscience](#) in connection with President Bush's November visit.

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

Power Plant Construction Continues After Government Suppresses Villager Protests in Shanwei

The construction of a controversial power plant in Shanwei city, Guangdong province, has continued on schedule after provincial authorities promised full support and "conditions of social stability" for the continued construction, based on a December 22 news update on the [Web site](#) of the Guangdong Red Bay Generation Company, which is building the plant. The update followed a Washington Post [report](#) on December 21 that concluded that local opposition to the power plant had been "reduced to submission." Following violent confrontations with the People's Armed Police (PAP) on December 6 and 7, authorities sealed off Dongzhoukeng village in Shanwei and placed it under heavy police surveillance.

The December 6 incident resulted in three deaths, eight injuries, and nine arrests, according to a December 11 [statement](#) by the Shanwei municipal government (via Southern Daily, a publication sponsored by the Guangdong Communist Party). A December 13 Ta Kung Pao [report](#) noted that Shanwei authorities also detained Deputy Director Wu Sheng of the Shanwei Public Security Bureau for mishandling the situation. Numerous international reports, however, said that as many as 20 villagers died in the incident, and noted that a news blackout made it difficult to obtain more accurate information. In a [statement](#) condemning the government's use of violence, the U.S. NGO Human Rights Watch (HRW) commented: "Because

of the lack of transparency, we don't know whether [Deputy Director Wu Sheng] is a scapegoat, or if he is only one of many who should be arrested." Both HRW and London based [Amnesty International](#) have called for an independent investigation into the incident. On December 20, a U.N. spokesperson told [Reuters](#) that Philip Alston, the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, wrote to the Chinese government to request additional information regarding the underlying dispute and government's response.

Events in Shanwei have also drawn criticism from scholars and activists inside China. Activist and retired Beijing University professor [Ding Zilin](#) and Independent Chinese PEN Center president [Liu Xiaobo](#) are among the 14 scholars and activists who issued an [open statement](#) dated December 10 that condemns the failure of the Chinese government and domestic media to investigate and clarify what transpired. The statement highlights similar instances of [unrest over property seizures throughout 2004 and 2005](#) and references bloodshed in Henan province (July 2004), Shaanxi province (October 2004), [Sichuan province](#) (November 2004), and [Taishi village](#), Guangdong province (July through October 2005). It warns that the central government's failure to take appropriate action will undermine efforts to establish a "harmonious society" and to fulfill constitutional promises to respect and safeguard human rights. Beijing constitutional scholar Zhang Zuhua expressed skepticism that a single municipal public security chief could authorize violence of the kind seen on December 6, according to a December 13 Voice of America [report](#) (in Chinese). Zhang insisted that only Communist Party officials could authorize paramilitary forces to shoot civilians, and noted that the maneuvering of PAP units would have required provincial or higher level approval. A December 29 [article](#) by the government sponsored Beijing Review also included critical commentary from several mainland and Hong Kong scholars, including Xu Youyu of the Chinese Academy of Social Sciences, who cautioned that "the government should develop a new approach to social discontent before the public loses faith and patience."

The dispute with Dongzhoukeng villagers began in 2002, when the Honghai Bay Economic Development Experimental Zone in Shanwei requisitioned large tracts of arable land, hillside, and Baisha Lake to construct a coal-fired power plant. The December 10 statement notes that property seizures for the new plant led to the displacement of 40,000 residents in Dongzhoukeng village, and the government's failure to provide adequate compensation and resettlement has fueled opposition to continued construction. The [New York Times](#) (subscription required), [South China Morning Post](#) (subscription required), and [Washington Post](#) (registration required) also attribute local opposition to allegations that the power plant would pollute the surrounding area and destroy the livelihoods of Baisha Lake fishermen. The conflict escalated in 2005, amid accusations of embezzled compensation funds and after the failure of attempts to launch citizen petitions and a lawsuit. According to the official government account on December 11, confrontation with PAP officers resulted when villagers from Dongzhoukeng joined those from neighboring Shigongliang village to seize control of a wind farm unrelated to the Dongzhoukeng dispute. A total of three electricity generating projects are under construction in the Honghai Bay area, including the coal-fired power plant, a wind farm, and a wave power plant, according to a December 10 Associated Press [report](#) (via Forbes).

For additional background and a chronology of events leading to the December 6 incident, see reports on October 6 by the [Epoch Times](#) (in Chinese) and on December 21 by the [Washington Post](#). See also a series of reports by Radio Free Asia (RFA) on October [6](#), [11](#), [13](#), and [25](#) (in Chinese), and December [7](#), [8](#), [9](#), and [19](#) (in English).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060101&show=ALL#id34606>

Trade Officials Tell WTO That Government Contemplates No New Changes to Criminal IPR Laws

Chinese trade officials told an October 25-28 World Trade Organization (WTO) meeting that the National People's Congress (NPC) has "no plans to amend the Criminal Code or other IP laws at this moment, although in-depth research and study in this field would continue," according to the WTO's [official record](#) of the meeting released on November 21. The comments responded to the written submissions of other WTO members that questioned the adequacy of the provisions of the Criminal Law that define intellectual property rights (IPR) offenses. The exchange was part of the fourth annual WTO Transitional Review Mechanism (TRM), which the WTO's Council on Trade Related Aspects of IPR conducted in late October.

The [China Daily](#) and [People's Daily](#) (in Chinese) subsequently reported that the NPC plans to amend the [Patent Law](#) during its spring 2006 session. Among the changes to the Patent Law that the NPC will consider are simplifying patent application and examination procedures, enhancing protections for China's domestic biological and genetic resources, and increasing disclosure requirements for the origin of any biological and genetic resources used in a patented invention. The Patent Law does not assess criminal penalties for patent infringements, however, changes to that law will not address concerns about the insufficiency of the Criminal Law's IPR provisions. If Chinese lawmakers were to make the criminal penalties imposed for serious IPR violations more specific, they would need to amend [Chapter III, Section 7 of the Criminal Law](#), which addresses IPR violations.

The Commission found that the current IPR provisions in the PRC Criminal Law are inadequate to deter infringement in the [Commercial Rule of Law and Impact of the WTO section](#) of the 2005 Annual Report. In addition, the American Chamber of Commerce in China and the American Chamber of Commerce in Shanghai assert in their September 2005 [White Paper 2005: American Business in China](#), that the Criminal Law provisions on IPR violations are "the one key [IPR-related] law not revised when China joined the WTO." The Chambers suggest that the NPC should revise the Criminal Law "to provide stronger protection, enhanced penalties and further clarification of standards" for IPR offenses. The Office of the U.S. Trade Representative (USTR) also said in its [2005 Report to Congress on China's WTO Compliance](#) that China needs to "pursue

additional legislative changes to improve the legal framework supporting enforcement, particularly in the area of criminal enforcement . . . through the removal of various evidentiary thresholds, the 'for profit' requirement in the copyright area, the 'identical trademark' requirement and the distinction between individual and enterprise liability."

Central Government Releases HIV/AIDS Statistics, Launches Migrant Awareness Program

The State Council Working Committee on AIDS Prevention and Treatment reported that the number of confirmed HIV/AIDS carriers in China has risen to more than 130,000, according to the transcript of a November 29 teleconference [posted](#) on the National Population and Family Planning Commission Web site. That number accounts for only about 16 percent of the total estimated HIV/AIDS cases in the country, according to comments made by Vice Premier Wu Yi during the teleconference.

Wu also expressed frustration with the slow pace of prevention work by governments at the local level, criticizing local officials for disregarding national policy on AIDS prevention. Local officials sometimes retaliate against AIDS victims who express their grievances. Beijing authorities forced two AIDS patients who had traveled to the capital to present grievances to return to their homes in Henan province, according to a December 1 Agence France-Presse [story](#) carried by the South China Morning Post (subscription required). Police also beat several HIV carriers participating in a sit-in outside a hospital in Xingtai, Hebei province, according to a November 15 Radio Free Asia [report](#).

The State Council and the Ministry of Health announced the formation of a joint program which aims to ensure that 65 percent of migrant workers have access to HIV/AIDS prevention information by the end of 2006, and 85 percent by 2010, according to a November 29 [announcement](#) on the Ministry of Health Web site. Wang Longde, Vice Minister of Health, described migrant workers as a high-risk group for HIV/AIDS infection, and criticized local governments for only providing HIV/AIDS prevention services to people with residential registration, according to a November 29 Xinhua [report](#).

A recent UNAIDS/WHO [AIDS Epidemic Update](#) characterized poor public awareness as one of the major constraints hindering a more effective response to HIV/AIDS in China. For a further discussion of HIV/AIDS in China, see Section III(h) - Public Health, of the Commission's [2005 Annual Report](#).

Assailants Beat Catholic Nuns Over Xi'an Land Dispute

Unidentified assailants beat a group of registered Catholic nuns on November 23 in Xi'an city, Shaanxi province, according to a November 28 AsiaNews [report](#). The nuns were protesting the demolition of a school that the government had promised to sell to the state registered Catholic Church. Five nuns sustained severe injuries and required hospitalization. Hundreds of Xi'an Catholics marched November 27 to protest the violence against the nuns, according to a November 30 AsiaNews [report](#). The Holy See issued a [declaration](#) that "the violence practiced in Xi'an against a number of defenseless nuns cannot but be firmly condemned." Authorities in Xi'an subsequently detained 11 men in connection with the beatings, according to a December 8 [report](#) (in Chinese) in the Xi'an Evening News.

The attack on the nuns occurred in downtown Xi'an, on land adjacent to the South Cathedral, the city's main state-approved Catholic church. The South Cathedral was established in 1716 and occupied structures on the disputed land, including a cathedral and elementary school, before Party officials nationalized and seized control of the properties in 1952, according to articles on December 2 in the [Washington Post](#) (registration required) and [South China Morning Post](#) (SCMP) (subscription required). The State Council ordered government authorities in 1980 to return buildings that had been confiscated from religious bodies. But Xi'an officials did not return the elementary school, saying that the government would take over all basic education functions.

The Education Bureau of Lianhu district in Xi'an closed the school in 2003 and reached an agreement with a local developer to replace the school with a nursery, according to a December 13 report available through the Union of Catholic Asian News (UCA) [Web site](#). Despite the government's promise to sell the school property to the church, a demolition crew moved in on November 22 to tear down the school building and a wall between the cathedral and the school. On November 23, workers cut off electricity to the cathedral. Unidentified assailants attacked the nuns the same evening, after the nuns tried to prevent further demolition of the disputed property, according to the Washington Post.

AsiaNews [reported](#) on December 12 that the developer enlisted the assailants to settle the dispute through violence. Witnesses speculated to AsiaNews and the SCMP that the assailants had actually been "sent by the government education district" and that "local officials approved the attack in an attempt to resolve the land dispute in their favor." The Lianhu Education Bureau has responded to the incident by offering 3,000 yuan (approximately US\$375) as compensation to each nun. According to a December 12 article available through UCA, authorities later raised the compensation to 50,000 yuan (approximately US\$6,200) for one nun who required surgery. On December 12, the Xi'an diocese released to Catholic Church media a "Statement from the Xi'an Diocese Bishop Li Du'an on the Incidence of Assault on Catholic Sisters in the Wu Xing Street Church," available through the China Catholic News [Web site](#). Bishop Li confirmed that the government would transfer land ownership of both the cathedral and school to the Catholic Church, but provided no further details about the land contract. Both UCA and SCMP disclosed that the purchase amount would total 6.5 million yuan (approximately US\$812,500). Anthony Lam Sui-ki, a senior researcher at the Hong Kong diocese's Holy Spirit Study Centre, told SCMP, "This will set a very bad example if the [Catholic] church has to pay for it." In his remarks to UCA, Lam characterized the Xi'an

case as "the first in which the [Catholic] Church has had to buy back its own land."

International media and human rights organizations have recently documented the problem of officially authorized violence against Chinese citizens. Some local Chinese officials have resorted to hiring "thugs" to intimidate or beat activists, critics, lawyers, journalists, or citizens who challenge corrupt practices, according to a November 22 [article](#) in USA Today. Human Rights Watch highlighted this issue in a December 8 [news release](#) and documented several cases of officially authorized violence in its December 2005 report, [We Could Disappear at Any Time: Retaliation and Abuses Against Chinese Petitioners](#). In October, the CECC reported on two cases of officially authorized violence against Chinese citizens who challenged local government abuse of power. In Taishi village, Guangdong province, officials reportedly hired plainclothes security forces to [beat former official Lu Banglie](#) when he attempted to examine villagers' [failed efforts to recall](#) an allegedly corrupt local leader. In Shandong province, officials reportedly hired plainclothes security forces to [beat activist Chen Guangcheng](#) while he remained under house arrest for exposing the [abuses of population planning officials](#) in Linyi city. The practice of hiring plainclothes security forces has allowed local officials to deny responsibility for the beatings, according to the USA Today article. The National People's Congress Standing Committee passed a [State Compensation Law](#) (SCL) in 1994 to provide for compensation when abuse of government power infringes upon individual rights. A January 6, 2005 [commentary](#) in the People's Procuratorate Daily [questioned](#) whether the SCL is of any practical use to Chinese citizens whose rights have been violated.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060101&show=ALL#id32001>

Ministry of Health to Distribute AIDS Prevention Guides in Minority Languages

The Ministry of Health (MOH) will give out 90,000 free AIDS prevention guides to members of China's ethnic minority communities, according to an MOH [announcement](#) on November 30 reported in Xinhua. The MOH subsidized publication of a Chinese-language guide translated into Uighur, Tibetan, Kazak, Korean, and Mongolian. It will give out the guides to village-level health care facilities in the Xinjiang Uighur Autonomous Region (XUAR), Inner Mongolia Autonomous Region, Tibet Autonomous Region, and the provinces of Yunnan, Sichuan, Gansu, Qinghai, Liaoning, Jilin, and Heilongjiang. This news coincided with the Chinese government's announcement on the same day that it has budgeted \$100 million for AIDS prevention and treatment, according to a China Daily [report](#).

Some of the highest rates of HIV infection in China occur in regions with large ethnic minority populations. Yunnan province, the XUAR, and the Guangxi Zhuang Autonomous Region are among the five provincial-level areas that reported more than 10,000 people infected with HIV by the end of September 2005, according to the [transcript](#) of a November 29 [teleconference](#) made available by Xinhua and posted on the National Population and Family Planning Commission Web site.

Despite new efforts to improve AIDS prevention, the government continues to place restrictions on AIDS [activists](#) and [non-governmental organizations](#). Increased governmental controls on civil society in minority areas exacerbate the challenge of curbing AIDS there. In the XUAR, for example, government restrictions over religious and social organizations hinder grassroots efforts to deal with social problems that contribute to HIV transmission. The Chinese government bans meshrep, Islamic-based social groups that have sought to reduce behaviors such as drug abuse. Needle sharing among drug users was the source of 93 percent of the XUAR's HIV/AIDS infections, according to a 2004 Radio Free Asia [report](#) based on official statistics.

For further information on the Chinese government's controls over AIDS activists, see the 2005 Human Rights Watch report [Restrictions on AIDS Activists in China](#). More information on meshrep is available in Amnesty International's 1999 report [Gross Violations of Human Rights in the Xinjiang Uighur Autonomous Region](#). For a further discussion of HIV/AIDS in China and the government's control over religious organizations in the XUAR, see Section III(h), on "Public Health," and Section III(d), on "Freedom of Religion," in the CECC's 2005 [Annual Report](#).

U.S. NGO Reports that Official Abuse of Petitioners Is Rampant in China

Official abuse of Chinese petitioners is rampant, according to a Human Rights Watch (HRW) [press statement](#) and [report](#) released on December 8. Chinese citizens often petition Party and government xinfang ("letters and visits") bureaus for redress of their grievances. The HRW report notes that petitioners rarely succeed in obtaining redress, and also cites first-hand interviews with Chinese petitioners detailing official abuses, including beatings and torture.

The HRW report notes that official abuses of petitioners are linked to incentives given to local officials. Central officials often evaluate the job performance of local officials based in part on the number of petitioners from their jurisdictions that travel to Beijing to present grievances to the central government. Large numbers of petitioners can have a negative effect on a local official's career. Thus, local officials have an incentive to suppress citizen petitioning efforts. For more information, see Section V(e), [Access to Justice](#), of the Commission's 2005 Annual Report.

The HRW report says that local officials often send plainclothes security officers called "retrievers" to Beijing, where they abduct or detain petitioners and force them to return to their home provinces. The report notes that Beijing police are complicit in these acts, often ignoring such abductions or detentions and sometimes assisting the "retrievers." Other local Chinese officials have [employed](#) plainclothes officers or thugs to harass or intimidate activists, journalists, and lawyers.

The HRW report calls on the Chinese government to make structural changes to address these abuses. First, it recommends that Chinese authorities clearly ban the use of "retrievers" to kidnap and detain petitioners. Second, the HRW report recommends that Chinese officials require that the Beijing police protect the rights of petitioners and halt their practice of condoning the abuses by "retrievers" or hired thugs. Third, the report calls on Chinese officials to release all petitioners who have been detained for exercising their right to petition. Fourth, the report recommends that Chinese officials change the incentive system that links local officials' career advancement to suppression of citizen petitions. Fifth, the report recommends that Chinese authorities make legal aid available to petitioners, allow petitioners to work in Beijing, and revise the petitioning system through a legislative process that incorporates the opinions of petitioners themselves. Finally, the report calls on Chinese authorities to create an independent judiciary capable of resolving petitioners' grievances and to establish genuine political accountability for local officials, who often are the cause of citizen complaints.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060101&show=ALL#id33300>

Five Drepung Monks Detained During Patriotic Education, Prompting Silent Protest

Public Security Bureau (PSB) officials in Lhasa, Tibet Autonomous Region (TAR), detained five monks from the Drepung monastery, the urban area's largest, on November 23, according to November 29 reports by [Radio Free Asia](#) (RFA) and the [Tibetan Centre for Human Rights and Democracy](#) (TCHRD). The monks refused instructions from officials conducting "patriotic education" at Drepung to sign a document denouncing the Dalai Lama as a separatist, pledging loyalty to the Chinese government, and agreeing that Tibet is part of China, according to TCHRD. Drepung officials, who probably were members of the monastery's Democratic Management Committee, expelled the monks from the monastery and handed them over to the PSB. Abbot Ngawang Phelgyal, one of the detained monks, reportedly explained to the instructors that the monks rejected the notion of condemnation of the Tibetan spiritual leader. The abbot said that if instructors had instead ordered the monks to condemn Chinese leaders such as Deng Xiaoping and Jiang Zemin, they would also refuse, according to an RFA source. The other detained monks are Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thubten, and Phuntsog Thubwang, according to a November 30 TCHRD [report](#). The TCHRD report implies that the PSB may be holding each monk in the county where the monk's family lives, but RFA reports that no further details were available.

Two days later, Drepung monks ("over 400" according to TCHRD; "an unknown number," according to RFA) gathered in Drepung's main courtyard and protested together silently against the patriotic education campaign and the accompanying crackdown. "PSB officials threatened to remove them by force and sealed the monastery to prevent anyone from entering or leaving," according to RFA sources. A monastery official who RFA contacted said that the monastery had closed for two days so that PSB officials and People's Armed Police could conduct "fire drills" and the "annual inspection of cultural items," and that the monastery had reopened. TCHRD alleges that when police "quelled" the protest, "resisting monks received severe beatings." The RFA report does not mention police violence against the protestors, and additional information is not available about any consequences of the protest. Public protests by Tibetans against Chinese government policies have become rare following a more turbulent period from the late 1980s to mid-1990s (see [CECC 2005 Annual Report](#), p. 47).

Authorities began the [patriotic education campaign](#) in the Lhasa area in April. PSB officers reportedly detained [8 of 13 Sera Monastery monks whom monastic officials expelled in July](#), when the monks were to be tested. At about the same time, PSB officers subjected [a Sera "disciplinarian" to one year of surveillance and detained another monk](#) for their roles in arranging an oral reading of a prayer that mentioned the Dalai Lama. A Drepung monk apparently committed suicide in October after he argued with patriotic education instructors, according to [speculation by monks who discovered his body](#).

Changzhou City Government Adopts WTO-Inspired Transparency Measure

Officials in Changzhou city, Jiangsu province, announced in November that the city government would no longer enforce regulatory documents [[guifanxing wenjian](#)] that have not been published first in the local newspaper, the government's gazette, or another publication specified by the city government, according to a December 8 [article](#) (in Chinese) in the Legal Daily. The new policy is consistent with the key WTO principle of transparency. Part 1, Section 2(C) of China's [Protocol of Accession to the WTO](#) requires that the Chinese government publish any trade-related measure for comment before making it effective, and also provide "a reasonable period for comment to the appropriate authorities before such measures are implemented." In the [Circular Regarding the Program to Submit Proposals to the City Government's 2006 Plan for Drafting Regulatory Documents](#), the Changzhou government says that, "[a]ccording to the principle of the WTO 'principle of openness and transparency,' there is generally one month between the time that regulatory documents and other policies and proceedings are promulgated and the time that they are implemented." The public can conveniently "inspect and review" any such draft measure before the government makes it effective if it has been published in one of the three approved media, according to the Circular. The Circular does not address whether the city government intends to accept or respond to comments on the published drafts.

The CECC found the Chinese government's compliance with the requirement to publish trade-related measures to be inconsistent in the [Commercial Rule of Law and the Impact of the WTO](#) section of the [2005 Annual Report](#). The Changzhou circular, however, provides one example of a local Chinese government working to implement this basic transparency commitment in its regulatory system. The Circular applies not only to trade-related measures covered by the WTO, but also to all regulatory documents issued by the city government's agencies, and thus is a concrete example of the impact of WTO accession on regulatory regimes unrelated to commercial law.

Officials Detain and Eventually Release 29 House Church Leaders in Henan Province

Officials detained 29 house church leaders meeting in Henan province on December 12, according to a [report](#) issued the same day by the China Aid Association (CAA), a U.S. NGO that monitors the religious freedom of house church Protestants. Approximately 100 house church leaders from Henan and Anhui provinces met in Xiapigang village, Dungang town, Xincui county in Henan province to discuss how their churches can assist local farmers who have contracted AIDS. Officials raided the meeting, characterized it an "illegal religious gathering," and detained Shen Yiping, a pastor and founder of the China Gospel Fellowship, Yang Huamin, and 27 others. A public security official, however, told the South China Morning Post (SCMP) that "70 or 80" people were reported present at the meeting, according to a December 14 SCMP [article](#) (subscription required). Officials released the 29 detained house church leaders on December 13, according to another CAA [report](#) of the same day, but did not return personal property seized from those detained.

This detention adds to a list of [recent detentions](#) of house church Protestants, many of which also took place in Henan province. Article 12 of China's [Regulations on Religious Affairs](#) (2005) forbids citizens to gather other than at "registered sites" presided over by "religious personnel" whom the government certifies as "qualified." The Chinese government generally qualifies only religious personnel who submit to state control of religious groups. The government uses this and other regulations to detain and sometimes arrest believers who choose to worship outside state-controlled venues.

For more information on Protestants in China, see the CECC 2005 Annual Report, Section III(d), [Religious Freedom for China's Protestants](#).

Three Gorges Project Results in More Evictions, Land Scandals, and Corruption Cases

The Chinese government's Three Gorges Project has led to the forced eviction of residents in Shengquan village, Chongqing municipality, according to a December 2 [report](#) by Radio Free Asia. Construction on the massive hydroelectric dam project began in 1993 and should be completed by 2009. Local government officials issued eviction orders on December 1, giving villagers seven days to complete procedures for temporary relocation. Villagers complained that government agents began shutting off their water supply and blocking streets as early as November 30, to force them to relocate. In addition, villagers allege that the compensation and resettlement terms offered to them are unreasonable, and that the government offers higher amounts to those with an urban household registration ("hukou") than those with a rural hukou.

Based on information from the official Xinhua news agency, the People's Daily [reported](#) that the government began its latest stage of land and water clearance for the Three Gorges Project on December 1. The report notes that the Three Gorges Project will require the resettlement of 1.13 million people before completion. A November 16 Xinhua [report](#), also available on the People's Daily Web site, notes that the cost so far of building the Three Gorges Project has totaled 130 billion yuan (about \$16.11 billion), including funds set aside to restructure local industry and to help resettle firms, migrants, and laid-off workers. By July 2005, the portion of these funds allocated for restructuring and resettlement totaled 42.9 billion yuan (about \$5.3 billion), according to a September 4 [report](#). Corruption among local land officials has been a continuing problem. The Beijing News [revealed](#) that between 1993 and 2004, 327 cases of illegitimate use of resettlement funds were found in Chongqing municipality and Hubei province. Of the 369 officials accused and "seriously punished" for embezzlement, 23 were officials at the county level who embezzled more than 55.79 million yuan (about \$6.79 million) in subsidies that should have gone to displaced migrants.

On December 5, the China Daily released an English language report on "the biggest corruption case of its kind involving the [Three Gorges] project." The case involved the embezzlement of 2.81 million yuan (about \$35,000) by Du Jiang, head of the Farmland Protection Section of the Land and Resources Bureau in Wushan county, Chongqing municipality. According to an [article](#) on the China Court Network, the Chongqing No. 2 Intermediate People's Court tried Du on July 12. Xinhua carried the Chinese language [report](#) on his conviction and death penalty sentence, with a two-year reprieve, one day after the court announced its verdict on September 29. The December 5 article quotes Xia Kailiang, Deputy Director of the Supervision Office of the State Council's Three Gorges Construction Committee, as insisting that "corruption and funds' embezzlement has been minimal" compared to the large amount of investment in the Three Gorges Project. Despite Xia's characterization of the corruption as "minimal," criminal punishments for official graft related to the project have been severe in several cases, including Du's. Beijing News noted that Wang Sumei of the Resettlement Bureau of Wanzhou district, Chongqing municipality, embezzled more than 1.3 million yuan (about \$157,195) and received a sentence of life imprisonment. Huang Faxiang, former Director of the Land and Resources Bureau of Fengdu county, Chongqing municipality, was executed after being convicted of embezzling more than 12 million yuan (about \$1.45 million).

Compensation for evictions and requisitions remains a contentious issue. In March 2004, the National People's Congress amended Article 10 of the Chinese Constitution to require that the government pay compensation when it expropriates land. The CECC notes in its [analysis](#) of the [2004 Amendments](#) to the Chinese Constitution that the new language leaves the amount of compensation undefined. An [Opinion Guiding Urban Demolition and Relocation Compensation](#), issued by the Ministry of Construction in 2003 and effective as of January 1, 2004, strongly suggests that compensation be based on market value, but the RFA report shows that Shengquan villagers received less than half the estimated value of their homes.

Experts at a June 21, 2004, CECC Roundtable on [Property Seizure in China: Politics, Law, and Protest](#) confirmed that the rapid pace of development and the high value of land in China have continued to fuel corruption and abuse in land deals. Chinese leaders have issued numerous regulations and circulars prohibiting violence, intimidation, and other abusive tactics to relocate farmers and urban residents and make way for new developments. In June 2004, the State Council issued a [Notice on Controlling the Scope of Housing Demolition and Relocation in Cities and Towns and Tightening Up Demolition and Relocation Management](#) and urged the prohibition of "methods such as cutting off electricity, gas, or heat, blocking traffic, and other tactics to force residents subject to demolition to move." In August, a Shanghai court [sentenced to death](#) two employees of a demolition and relocation company for violent evictions. According to a March 8 China Daily [article](#), the Shanghai municipal government also announced that it will bring criminal charges against those found to cut off power, water, or gas to homes in order to encourage residents to move out.

More information on [Forced Evictions and Land Requisitions](#) is available in Section V(f) of the CECC [2004 Annual Report](#).

New Regulations on Newspapers and Magazines Go Into Effect December 1

New rules governing the publication of newspapers and magazines in China went into effect on December 1. The [General Administration of Press and Publication](#) (GAPP) issued the [Provisions on the Administration of Newspapers](#) and [Provisions on the Administration of Periodicals](#) on September 30 to replace the [Interim Provisions on the Administration of Newspapers](#) (Interim Provisions) and the [Interim Provisions on the Administration of Periodicals](#) originally enacted in 1990 and 1988, respectively. According to a special section entitled [Interim Provisions to Become History: Ten Key Words to Understanding the New Rules on Newspaper and Periodical Registration](#) on the People's Daily Web site, the new Provisions are intended both to incorporate more recent government regulations on [journalists and editors](#) and [editors-in-chief](#), as well as to address issues raised by China's increasingly market and profit driven newspaper publishing industry. The Provisions governing newspapers and magazines are similar in most material respects, so this update will focus on the former.

Under the Provisions, the government retains absolute control over who may publish a newspaper and who may work as a journalist or editor at a newspaper. The Provisions also define government content restrictions, and implement formal procedures to allow the government to monitor newspapers' contents and impose sanctions, including banning a publication and fining its operators, for violating those restrictions.

Controlling Who May Publish News Through Licensing

Anyone who attempts to publish a newspaper (or any publication) in China without a government license is subject to administrative sanctions under the [Regulations on the Administration of Publishing](#) including fines, [confiscation](#), and [closure](#). Unlicensed publishers are also subject to criminal liability under Article 225 of the [Criminal Law](#) and the Supreme People's Court's 1998 [Explanation Regarding Certain Questions About the Specific Laws to be Used in Adjudicating Criminal Cases of Illegal Publications](#), which can include [fines, confiscation, closure, and imprisonment](#).

The Provisions govern all "newspaper publishing activities conducted in the territory of the People's Republic of China," and (based on a combined reading of Articles 2 and 67) defines a "newspaper" as any publication with a permanent name and a fixed format and number of issues. Only government licensed "newspaper publishing work units" may publish newspapers. To obtain a license, a work unit must have a government recognized "supervising work unit" and "sponsoring work unit." Under the Provisions, the GAPP controls the total number, structure, and distribution of newspaper publishing work units nationwide, and carries out "supervision and management" of newspaper publication throughout China. The Provisions also restrict the right to publish newspapers to those who are able to secure at least 300,000 yuan (about US\$35,000) in registered capital.

Controlling Who May Gather News Through Accreditation

In January 2004, the Chinese government began issuing a national journalist "accreditation card" and maintaining a database of government-accredited journalists, as well as individuals whose journalistic credentials had expired or been revoked. Shi Feng, the GAPP deputy director, recently summed up the Party's reason for implementing formal government accreditation requirements in an October [speech](#) to the National Newspaper and Magazine Administration Work Meeting (via the People's Daily Web site) and again in an [article](#) in the November edition of "Media" magazine (via the Xinhua Web site), saying: "to control affairs it is necessary to first control people" [*guan Zhu Shi Bi Xian Guan Zhu Ren*].

The Provisions state that newspapers must "adopt a system of editor's responsibility to ensure that the contents of newspapers conform to the provisions of the state laws and regulations." In addition to mandating that all journalists and editors must "meet the [occupational requirements for press publication prescribed by the state](#)," the Provisions also require each newspaper's director general and editor-in-chief to take part in "[occupational training](#)" conducted by the GAPP and pass an examination before assuming their duties. The Provisions require all editors and journalists to hold a government issued "[accreditation card](#)," and implement a "[real name](#)" system whereby newspapers may not publish articles either anonymously or using a *nom de plume*.

Controlling Content Through Monitoring

In October 2005, the People's Daily Web site published a special section entitled [Administering Newspapers and Periodicals - From Looking at Each Tree to Managing the Forest](#) which outlined "big problems" that the Provisions were intended to address. Half of the "problems" listed related to the content of China's newspapers, including "denying the leading position of Marxism," "departing from the Party's line," "capriciously publishing irresponsible debates on the Party's leaders and the nation's policies," and "failing to ask for instructions before publishing critical reports that might have a major impact on society."

The Provisions have dropped the Interim Provision's statement that China's newspapers "constitute an important part of the Communist Party's socialist news enterprise," as well as its requirement that newspaper "propagate the path and policies of the Chinese Communist Party." They retain, however, the requirement that newspapers must "adhere to Marxism-Leninism," and include new language requiring newspapers to "follow correct guidelines of public opinion and publication orientation and persist in the principle of giving first priority to social benefits, achieving a combination of social benefits and economic returns, leaning close to practice, the masses and life, and fostering a good atmosphere for building socialism with Chinese characteristics and enriching the cultural life of the broad masses of the people."

The Provisions have also dropped the Interim Provisions' list of prohibited content, and instead incorporate by reference the list included in the [Regulations on the Administration of Publishing](#). That list includes vaguely worded prohibitions on content that "jeopardizes the integrity of the nation's unity," "harms the honor or the interests of the nation," "propagates evil cults or superstitions," or "disturbs social order or disrupts social stability." The Provisions also require that newspapers must obey unspecified "relevant regulations" when "carrying or reprinting contents with relation to the important state policies, national and religious affairs, diplomacy, military, and secrecy of the state."

The Provisions establish a post-publication content screening system (referred to as a "re-reading system" in the government's translation), and an annual review system under which each newspaper's supervising work unit, as well as the GAPP and its provincial level offices, are responsible for reviewing the contents of China's newspapers. The Provisions require provincial level GAPP offices to conduct annual "verification and examination" reviews of newspapers in their respective jurisdictions, and report their results to the GAPP, and each supervising work unit and provincial level GAPP office must submit regular written reports to the GAPP. The Provision states that publishing, printing, and distribution enterprises may not provide services to any newspaper unless it has passed the previous year's inspection. The Provisions also require each newspaper to establish its own "reading and assessment system," and submit regular reports to the GAPP, and once a year each newspaper publisher must also submit a "self-examination report" and copies of its 30 most recently published editions to the GAPP branch office in its jurisdiction.

The Provisions require the GAPP to conduct "assessments" of newspapers' "publishing quality," and empower it to take the following actions with respect to a newspaper whose contents it deems incorrect or in violation of regulations:

- order the newspaper to print retractions or corrections;
- order the newspaper to cease publication and distribution;
- order the newspaper to retract entire editions;
- order the supervising and sponsoring work units to "rectify" the newspaper publisher;
- revoke the newspaper's publishing license.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060101&show=ALL#id31782>

Social Service Organizations Involved in Two Child Trafficking Cases

Social service organizations [fuli yuan] were involved in two child trafficking cases in November. Officials in Hunan province broke up a trafficking ring that included orphanage employees, according to a December 2 Xinhua [article](#), and a court in Inner Mongolia sentenced traffickers who bought infants from medical clinics, according to a November 22 Xinhua [article](#).

In Hunan province, public security officials arrested 16 suspects in late November for involvement in a trafficking ring, seven of whom worked at state-funded orphanages. The orphanage employees bought infants that had been abducted in Guangdong province, selling the children to adoptive families at prices up to 30 times what they had paid the Guangdong traffickers. In Inner Mongolia, traffickers bought newborn infants from 28 private medical clinics in and around Hohhot city and sold them to buyers in central China. Officials arrested suspects in the case in May 2005, and in November the Hohhot Intermediate People's Court sentenced the leader of the trafficking ring to life imprisonment.

In 2004 and 2005, gangs abducting and selling children have become [increasingly common](#), despite anti-trafficking efforts by government agencies and international organizations such as UNICEF and the International Labor Organization. The latter organizations stress the need for law enforcement agencies and civil society entities to work together to stop trafficking. An amendment to the Law on the Protection of the Interests and Rights of Women passed in August 2005 [contains provisions](#) strengthening the role of non-law enforcement agencies in the fight against trafficking. Due to unclear lines of authority among state agencies responsible for administering orphanages, employees at social welfare organizations are still able to engage in trafficking of infants, according to a November 25 Legal Daily [article](#). In addition, adoption laws do not clearly regulate fees, allowing employees to sell infants to families for a profit.

For more information on the efforts of international organizations and the Chinese government to curb trafficking, see the CECC Annual Report section III(f) [Status of Women: Trafficking of Women and Girls](#).

Local Governments Resist Reforms to Household Registration System

Ministry of Public Security (MPS) sources say that national plans for reform of China's hukou (household registration) system that [were announced](#) in October have encountered resistance from some ministries and local governments, according to a November 21 [report](#) in Outlook Weekly magazine. Lu Hongyan, Deputy Director of the MPS General Office, said that hukou reform "is not entirely within the power or responsibility of the MPS" and that issues that affect the work of local governments require coordination with them, according to a November 24 China Economic Net [article](#). The MPS is attempting to coordinate with local governments and other ministries to present a hukou reform program by late December 2005 or early 2006.

Lu noted that many cities, such as Beijing, Shanghai, and Guangzhou, require individuals to have a local hukou to receive a number of public services, and that this requirement complicates central government reform efforts. Government employment in Beijing requires an individual to possess a local Beijing hukou, according to the Outlook Weekly report. Students without a Beijing hukou must pay 20-30,000 yuan in additional schooling fees. Beijing authorities link possession of a local hukou to obtaining social security payments and low-interest loans for housing. Local governments sometimes resist hukou reforms to avoid providing services and opportunities to migrants on an equal basis with established urban residents.

The MPS sources cited by the Outlook Weekly say that the national reform plans seek to synthesize recent local government experiments, expanding them throughout China. Both the Outlook Weekly and China Economic Net articles, however, cite scholarly criticism that existing local hukou reforms are symbolic rather than substantive. Hu Xingdou, an economics professor at the Beijing University of Science and Engineering, says that current reforms that would eliminate the distinction between "agricultural" and "non-agricultural" hukous have progressed relatively smoothly, according to the China Economic Net article. Nevertheless, these reforms have "have not involved substantive content" because they have not allowed migrants equal rights to public services, according to Professor Hu.

Hukou registration has two independent components: a distinction between agricultural and non-agricultural hukou, and a local/non-local distinction. Reforms that abolish the former do not necessarily affect the latter. Migrants must obtain local hukou in urban areas to receive public services and benefits on an equal basis with other urban residents.

For more information on the Chinese hukou system and related reforms, see the Commission's [recent topic paper](#) on the subject, the [chart](#) of various national and provincial hukou reforms through the end of 2004 on the Freedom of Residence [page](#) of the Commission's Web site, the Commission's [2004](#) and [2005](#) Annual Reports, and the Commission's recent [roundtable](#) on hukou reform.

UN Special Rapporteur on Torture Concludes Two-Week Visit to China

Manfred Nowak, the UN Special Rapporteur on Torture, concluded his [two-week visit](#) to China and confirmed allegations that "the practice of torture, though on the decline - particularly in urban areas - remains widespread in China," according to a December 2 [press release](#) available through the Web site of the UN High Commissioner for Human Rights. The press release acknowledges the Supreme People's Procuratorate's (SPP) efforts to investigate civil servants for criminal activity related to torture and other forms of ill treatment, but concludes, "When compared with other national statistics, these official figures are clearly the tip of the iceberg in a country the size of China and demonstrate that most victims and their families are reluctant to file complaints for fear of reprisal or lack of confidence that their complaints will be addressed effectively." The Ministry of Foreign Affairs (MFA) published [remarks](#) by spokesman Qin Gang at a December 6 press briefing that refute Nowak's finding that torture is widespread and insist that "the rapporteur jumped into a conclusion, which is ill-grounded on the part of facts and does not conform to reality." Qin said, "We have expressed our position to the Rapporteur and hope that Mr. Nowak can correct the wrong conclusion in his report." Nowak will submit a final report on his visit to the UN Commission on Human Rights at its session in 2006.

The Special Rapporteur expressed gratitude to the Chinese government in a November 22 [interview](#) with the BBC, and interpreted his invitation to visit China as a sign of growing official awareness about the torture problem. A December 23 [article](#) in the China Daily pointed out that the Chinese government promised cooperation with the UN body and agreed to allow Nowak unannounced visits to prisons and interviews with prisoners. Nowak revealed in the December 2 press release, however, that he had not received authorization to visit detention centers on his own and could not consider his visits to be "unannounced." Moreover, he discovered that public security officials had prevented or physically blocked some victims of abuse and their family members from meeting with him, and found in his interviews with detainees "a palpable level of fear and self-censorship which he had not experienced in the course of his previous missions." According to the BBC's December 6 [report](#), MFA spokesman Qin "denied Nowak's allegations that public security officers had monitored his activities and tried to stop torture victims from meeting him." After visiting detention centers and meeting with officials from the MFA, Ministry of Justice, Ministry of Public Security, and SPP, who were charged with briefing him on domestic efforts to oppose and prohibit torture, Nowak concluded that the Chinese government's official definition of torture does not correspond fully to the international standard. He also found that the criminal justice system fails to provide procedural safeguards to criminal defendants and is instead "focused on admission of culpability." He further pointed to a general inadequacy in complaint mechanisms, lack of an independent judiciary, and abuse of administrative detention measures, including "re-education through labor" (RETL), which go "well beyond legitimate rehabilitation measures." MFA spokesman Qin maintained that the

Chinese legislature has adopted "a package of laws on prevention, supervision, punishment and compensation" to prevent torture, and that it "has made great and effective efforts to prevent torture, and handle specific torture cases according to law."

The Special Rapporteur's findings are consistent with the CECC's findings on the [Rights of Criminal Suspects and Defendants](#), in Section III(b) of the [2005 Annual Report](#).

The UN press release concluded by recommending a series of actions to the Chinese government. In the area of criminal procedure, it recommended that China "[e]nsure that the reform of the criminal procedure law conforms to [International Covenant on Civil and Political Rights (ICCPR)] fair trial provisions, including by providing for the following: the right to remain silent and the privilege against self-incrimination; the right to cross-examine witnesses and the effective exclusion of evidence extracted through torture." China became a [signatory](#) to the ICCPR in 1998. Since early 2004, reports published on the Chinese language Web site [China.com](#) and in the weekly publication [Southern Weekend](#) have pointed to statements made by President Hu Jintao, Premier Wen Jiabao, and Politburo Standing Committee Member Luo Gan hinting that the government [will soon ratify the ICCPR](#). Concurrent with these developments, [legislators](#) and [scholars](#) inside China have been working to complete a draft revision to China's Criminal Procedure Law (CPL). The working draft that scholars revealed in October attempts to provide additional safeguards to criminal defendants, including the right to choose between making a statement and remaining silent, and a requirement that witnesses appear in court. In addition, the UN press release mentions a series of government efforts that attempt to eliminate interrogation through torture and the use of illegally obtained evidence. Such efforts include regulations promulgated by the central government in 2003 and 2004, and a [joint opinion by Sichuan authorities](#) in mid-April 2005.

The press release also recommends that the government "[a]bolish 'Re-Education through Labour' and similar forms of forced re-education of detainees in prisons and pre-trial detention centres and psychiatric hospitals." The UN Working Group on Arbitrary Detention published a report on its September 2004 mission to China, available on its [Country Visits](#) Web page, in which it [criticized](#) the government's failure to create real judicial oversight of administrative detention. The Working Group concluded that Chinese citizens enjoy "no genuine right to challenge administrative detention." Nowak's press release goes further, calling for the complete abolition of RETL and similar systems of re-education in prisons and detention centers. Nowak also calls for an end to the government's system of psychiatric hospitals for mentally ill criminal offenders (also known as the "ankang" system). The press release characterizes these systems of punishment as "aim[ed] at breaking the will of detainees and altering their personality." It makes a distinction between RETL's "forceful re-education of human beings with deviant behaviour through labour and coercion," and efforts such as vocational training or education within prisons, which instead aim for mere "rehabilitation and re-socialisation of persons who committed crimes." The Chinese government has [hinted at reform of the RETL system](#), but reports on the cases of activists [Wang Wanxing](#) and [Liu Shui](#) confirm that officials continue to use other administrative measures, including "ankang" and "custody and education." The National People's Congress Standing Committee re-affirmed the legality of using administrative punishment against criminal offenders by [passing a new Public Order Administration Punishment Law](#) in August 2005, which provides a basis in national law for the government's use of penalties such as fines and administrative detention against offenders of "minor crimes."

Other recommendations include eliminating imprecise definitions of crimes, broadening the role of defense lawyers, and granting more independence to judges.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060101&show=ALL#id32169>

Authorities Detain Two Foreign Journalists in Henan and Guangdong Provinces

Public security officers in Henan and Guangdong provinces detained two foreign journalists to prevent them from reporting on politically sensitive stories. The first incident occurred December 7 near Shanwei in Guangdong province, when a reporter from Hong Kong's TVB tried to enter Dongzhoukeng village to investigate reports of clashes between local residents and the government over property rights, according to a December 8 Radio Free Asia [report](#). Chinese authorities detained the reporter, forced him to write a self-criticism, and would not allow him to enter the township.

The second event occurred December 9 in Shenqiu, Henan province, when public security officials detained Georg Blume, the Beijing correspondent for the German weekly Die Zeit, according to a December 9 [report](#) (in German) on the Die Zeit Web site. Blume said authorities began following him that morning, forcing him to cancel interviews, then later stopped his car and held him in a hotel, accusing him of conducting "illegal interviews." Blume said officials interrogated him, examined his computer, and forced him to sign a statement saying he had come to Henan without government authorization. Authorities released him after five hours, and asked him to leave and not come back. Blume was conducting research in 1 of the 20 villages that lie along the Shaying River, where cancer rates have been rising dramatically since the 1990s, according to an October 2004 China Daily [report](#).

Local officials often try to prevent journalists from reporting on politically sensitive issues. In November 2004, the Beijing Daily [reported](#) that half of almost 15,000 reporters surveyed said they had experienced varying degrees of obstruction when trying to conduct interviews. Official obstruction ranged from having their equipment damaged to being physically assaulted and illegally detained, the responding reporters said. Another 2004 survey [cited](#) in the October 2005 edition of the Journalist Monthly found that the percentage of journalists surveyed who believed that incidents of "obstructionist interference" in investigative reports were "very severe" or "severe" was 25.6 percent in the case of radio reports, and 37.4 percent for

reports on television. Almost 75 percent of the journalists ranked Party and government agencies as the top sources of interference.

The government has taken at least one step to limit official interference with news reporting ([declassifying the number of fatalities caused by natural disasters](#)) in the past six months, but Chinese authorities have issued new regulations that allow officials to restrict the press' ability to cover important news, including:

- In May 2005, the [State Administration of Radio, Film and Television](#) issued its [Circular Regarding Calling for Resolutely Strengthening and Improving Radio and Television Public Opinion Supervision Work](#), which mandated government screening for radio and television programs that "easily trigger mass incidents."
- In September 2005, the [Ministry of Information Industry](#) and the [State Council Information Office](#) promulgated the [Rules on the Administration of Internet News Information Services](#), restricting who may report news on the Internet, and defining "news" to include reporting and commentary relating to "fast-breaking social events" [*tufa shijian*], a term that China's government and media use in reference to, among other things, [riots and mass demonstrations](#).

Despite its desire to [restrict reporting on major mass incidents](#), the central government often expresses dissatisfaction when local officials obstruct reporters from government-controlled news media, because such actions [limit its ability to monitor areas where unrest may occur](#). For example, in March 2005, Xinhua [complained](#) that public security authorities in Shanxi province had "interfered with the regular interviews of a Xinhua reporter" and "illegally restricted his personal freedom." The central government, however, does not support foreign journalists in a similar manner [when local authorities block them from conducting interviews and researching investigative reports](#). For example, when asked about reports that unidentified men detained and beat two foreign journalists attempting to reach Taishi village in Guangdong province to cover protests there in early October, Ministry of Foreign Affairs spokesperson Kong Quan [said](#):

What I know of the situation is that these journalists hid their identities, disguised themselves, and saw themselves as being just and honorable. Why did they not make it clear that they were there for an interview? If they went to learn about the villagers' protection of their civil rights, why did they say they were investigating such irrelevant issues as family planning and environmental protection?

On the national level, Chinese authorities [restrict the activities of foreign journalists](#), and try to prevent foreign news media from investigating stories that might harm the image of the government and the Party. These restrictions are designed in part to protect the Party's image abroad, but the primary concern is that Chinese citizens will learn information from foreign news sources that is censored in China. According to a November 2004 [report](#) from the [General Administration of Press and Publication](#), "various enemy forces strongly coordinate with each other, and take those things that cannot be published domestically abroad to be published, and then these once again infiltrate domestically."

Communist Party, State Council Order Stronger Controls Over Society

The general offices of the Communist Party Central Committee (CPCC) and the State Council jointly issued an opinion that calls on Chinese authorities to strengthen controls over society and address a range of social problems as a means to "establish a harmonious society," "improve the Party's ruling capacity," and "solidify the Party's position in power," according to a December 4 Xinhua article appearing in [Chinese](#) (on the central government's Web site) and [English](#). Two committees directly subordinate to the CPCC, the Political and Legislative Affairs Committee and the Committee for Comprehensive Management of Public Security, prepared the "Opinion Regarding Carrying Out Stable and Secure Development." A spokesman from the Committee for Comprehensive Management of Public Security commented in a [press statement](#) appearing on the National People's Congress Web site that the goal of the opinion is to curb a rise in the number of protests and demonstrations, and to combat crime.

The opinion calls for:

Focusing on Social Stability

The opinion identifies social order as necessary for Party control. The press statement says that Party and government officials must recognize that "development can only take place if [China] first has social stability." The press statement also sets a goal of 2006 to decrease the number of civil disputes that result in criminal activity, and reduce the number of "mass incidents" such as strikes, marches, demonstrations, and collective petitions directed at Chinese government authorities.

Chen Jiping, head of the Committee for Comprehensive Management of Public Security, called for the implementation of similar social order measures in a December 27, 2004 [interview](#) appearing on the Web site of the Ministry of Justice. He noted that China did "not have completely firm social order, and this has affected social stability." Chinese scholars have noted a rise in mass incidents, such as [those involving worker rights](#), since 1994. During the summer of 2005, senior Chinese officials [acknowledged](#) that China faces increasing social unrest, but ruled out any political liberalization in response.

Strengthening Party Control

The opinion specifies that officials should construct a system where "the Party leads, the government bears responsibility, society assists, and the people participate." The opinion also emphasizes that Chinese authorities should strengthen social

order at the grassroots level, "with grassroots Party organizations as the core, and autonomous grassroots institutions as the base," to serve a "front-line defense role" in maintaining social stability. "Autonomous grassroots institutions" commonly refer to residents and villagers committees. Although directly elected in theory, the Party subjects them in practice to a range of influences, as noted in Section V(d), [Democratic Governance and Legislative Reform](#), of the Commission's 2005 Annual Report.

The above language indicates Chinese authorities intend to preserve Party dominance over all government and social institutions. The State Council's October White Paper entitled [Building of Political Democracy in China](#) also [emphasized the need for continued Party control](#). The language of the opinion also suggests that Chinese leaders may be attempting to expand control over grassroots political institutions. Government officials in Anhui province have [recently expanded](#) their merger of township Party and government posts in what appears to be an experimental model under consideration for nationwide implementation.

Striking Out at Crime

The opinion calls for a system to both prevent and promptly "strike" against criminal activity, justifying this step as necessary to maintain social order. In December 2004, Supreme People's Court President Xiao Yang reportedly [instructed](#) courts to strengthen rights protection and ensure that innocent people are not prosecuted in the effort to fight crime and maintain stability. Politburo member Luo Gan, however, spoke at a national conference on December 5 and 6 and called for a "harsh crackdown" on criminal activities, to create a sound social environment for implementing the 11th Five-Year Program and building a "harmonious society," according to a December 7 Xinhua [report](#) on the People's Daily Web site.

Consistent with Luo Gan's remarks, the press statement calls for the establishment of a "regularized system to carry out 'Strike Hard' campaigns." In the past, "Strike Hard" campaigns have involved intense national crackdowns of fixed duration. These crackdowns resulted in unusually harsh law enforcement tactics, quick trials, and violations of criminal procedure. Since 2004, key Chinese law enforcement officials have emphasized that "Strike Hard" must become a [regularized](#) and [long-term](#) policy, according to a March 7, 2005 People's Daily article and a December 16, 2004 Xinhua article. Additional information on "Strike Hard" is available in Section III(b), [Rights of Criminal Suspects and Defendants](#), of the Commission's 2005 Annual Report.

Increased Attention to Social Security and Back Wage Issues

The opinion calls for the establishment of a permanent mechanism to address workers' claims for unpaid back wages. China has experienced significant [worker unrest](#) as a result of unpaid wages in recent years. In October, police in Chongqing [quashed](#) the largest workers' protest since 1989, after a steel plant declared bankruptcy and officials could not agree with workers on the terms of payment of wage arrears. [National](#) and [provincial](#) authorities have taken various steps in recent years to attempt to address the problem of unpaid back wages.

The opinion also calls for increased attention to violations of citizen rights, improvements to the social security system, and creation of mechanisms to resolve citizen complaints at the lowest level of government possible. The press statement notes that these issues must be addressed to maintain social stability.

New Techniques For Managing Migrants

The opinion calls for new techniques to manage China's migrant population, including greater protection of their rights. In October, Chinese officials said that they were [considering](#) national reforms to the household registration (hukou) system.

While the language in the opinion indicates the central government's willingness to experiment with reforms aimed at benefiting migrants, other statements suggest that Chinese authorities are primarily interested in strengthening their control over the migrant population. For example, Chen Jiping said that authorities need to strengthen the systems to monitor housing rentals for migrants, and improve systems used to keep track of temporary residents, according to a December 6 [article](#) carried on the Ministry of Justice Web site.

Strengthening the Handling of Citizen Petitions

The opinion calls for firm implementation of the [2005 Regulations on Letters and Visits](#), the protection of petitioners' rights, and the strengthening of the xinfang (letters and visits) system that Chinese citizens often use to redress their grievances. It also calls for better evaluation, monitoring, and response systems for mass incidents, such as collective citizen petitions to government authorities. For more information on the xinfang system and citizen petitioning, see Section V(e), [Access to Justice](#), of the Commission's 2005 Annual Report.

Strengthening Cadre Responsibility Systems

The press statement indicates that the "core leader" (*yibashou*) at each level of the official Chinese party and government hierarchy should personally bear responsibility for maintaining social order, and that Chinese officials should develop a "correct view of their official achievements." The language resembles Chen Jiping's December 27, 2004 statement, which asserted that all levels of the Chinese bureaucracy need to construct cadre responsibility systems that make the maintenance of public order a key component of their official performance evaluations.

Cadre responsibility systems make the career advancement and official sanctions of officials dependent on meeting designated targets, particularly with respect to social order. Officials can lose their government posts or suffer other career sanctions if a large number of protests or petitions occur in their jurisdictions. Chinese authorities have expanded the use of

responsibility systems in [recent judicial reforms](#) and under the 2005 Regulations on Letters and Visits.

The strengthening of the social order component of cadre responsibility systems may generate more social instability. Because these systems apply harsher disciplinary sanctions to officials who experience larger and more frequent protests, petitioners have an incentive to take their grievances to the streets to force officials to act. At the same time, they encourage local officials to suppress public expressions of discontent. This incentive structure appears to be fueling both a rise in organized mass petitions and local government efforts to suppress them. For more information on cadre responsibility systems, see Section V(e), [Access to Justice](#), of the Commission's 2005 Annual Report.

New Civil Society Regulations To Apply Same Restrictions to Domestic, Foreign Groups

Sun Weilin, director general of the Bureau of NGO Administration at the Ministry of Civil Affairs (MOCA), said on December 14 that the State Council is currently examining revised civil society regulations that will apply the same registration requirements to domestic and foreign organizations, according to a December 15 China Daily [article](#). Sun stated that the regulations are expected to be published early next year.

The "dual management system" currently used to govern domestic civil society organizations will apply to foreign organizations, according to Sun. National regulations require domestic civil society organizations to have an officially approved "sponsor organization" in order to register with MOCA. Sponsors assist MOCA in supervising the operations of civil society organizations. Because Chinese authorities limit sponsors to approved government bureaus and Party organizations, this requirement is a substantial impediment to the development of an independent Chinese civil society. For more information, see Section V(b), [Development of Civil Society](#), in the Commission's 2005 Annual Report.

The 1998 [Regulations on the Registration and Management of Social Organizations](#) and the 1998 [Temporary Regulations on the Registration and Management of Non-Governmental, Non-Commercial Enterprises](#) do not specify a system for foreign NGOs to register in China, and apply the sponsor organization requirement only to domestic NGOs. Many foreign NGOs present in China consequently operate without clear government rules. Some have registered as for-profit corporations, some have obtained specific individual approval for their activities, and others operate without any official registration.

Chinese officials have been considering amendments to the 1998 regulations for several years. Although some MOCA officials have [suggested](#) that the sponsor requirement should be abolished entirely, recent draft regulations have [not adopted](#) this suggestion. In 2004, the State Council issued the [Regulations on the Management of Foundations](#), which allowed foreign foundations to register representative offices in China, but required them to have a sponsor organization. For more information, see Section V(b), [Nongovernmental Organizations and the Development of Civil Society](#), in the Commission's 2004 Annual Report.

MOCA's announcement that foreign NGOs seeking to register will be required to have a sponsor organization follows heightened Chinese government concern over the activities of foreign and domestic civil society organizations. In May, the Economic Times, a publication of the Development Research Center of the State Council, [said](#) "It is necessary to learn from the lessons of the Commonwealth of Independent States, and prevent Western countries from carrying out infiltration and sabotage of China through political NGOs." In August, MOCA officials [announced](#) the creation of a system to "rate" domestic NGOs and assure their "healthy development." An academic expert cited in the December 15 China Daily article noted the need "to set up an exit system to eliminate non-performing NGOs according to the market rules."

Senior Censorship Agency Official Says Communist Party Must Control News Media

Shi Feng, a Deputy Director of the [General Administration of Press and Publication](#) (GAPP), described the position of the government and Communist Party on state control over newspapers and periodicals in an October [speech](#) to the National Newspaper and Magazine Administration Work Meeting (via the People's Daily Web site). Shi's remarks came a month after the GAPP issued [new regulations governing newspaper and periodical publishing in China](#) in September. Deputy Director Shi's views were published again in an [article](#) in the November edition of "Media" magazine (via the Xinhua Web site).

Shi emphasized that, while authorities should give play to "socialist market forces," they must not abandon the "battlefield" of public opinion, and instead should "occupy the marketplace" and "consolidate the Party's propaganda" to ensure continued Party supervision of public opinion. Shi said that the government is transforming how it administers China's newspaper and periodical publishing industry to allow publications to be "welcomed by readers." At the same time, he said, the government seeks to ensure that the Party retains control over who gets to publish and that publications "maintain the correct orientation." Shi's statements included the following:

- [D]o not waiver in the fundamental principle that [the Party controls the media](#).
- [T]he newspaper and periodical industry in our country is an industry that [requires government authorization to enter](#), and any newspaper and periodical publishing activity that has not been approved by the government is an illegal publishing activity.
- Newspaper and periodical publishing work is an important [public opinion propaganda domain](#) for the Party.
- [T]he main standard in determining whether administration is effective is whether newspaper and periodical publishing increases the ability of our country to address the world situation, whether it

correctly handles the concerns of reform, development, and stability, and [whether it increases the ability of the Party to govern](#).

- The primary responsibilities of newspaper and periodical administration agencies are to [control the correct orientation of newspaper and periodical publication](#), safeguard the good order of the newspaper and periodical market, and promote the healthy development of newspaper and periodical publishing enterprises and the publishing industry.
- [I]t is necessary to [strengthen the administration and guidance of newspaper and periodical publication content](#).
- [C]urrently newspaper and periodical publications are oriented toward valuing diversity, and this has significantly increased the possibility of the appearance of [orientation mistakes](#), and the risks to newspaper and periodical content administration are growing.
- [I]t does not matter whether it is the macroeconomics of newspaper and periodical quantity, structure, or distribution, or the supervision and administration of the newspaper and periodical publishing market; [everything must be in accordance with the policies and stipulated administrative measures determined by the overall situation of the Party's and the country's work](#).
- [N]ewspaper and periodical publishing work must never waver from the Party's fundamental ideological line, [always hold on to the correct political orientation](#), always maintain a steadfast political stand, never tolerate interference from any incorrect political concepts or value systems, and always safeguard stability, unity, and advancement.
- Through the establishment of the China Journalist Web we implemented an [effective supervision and administration system for the ranks of the nation's journalists](#), and carry out a "to control affairs it is necessary to first control people" [*guanzhu shi bi xian guanzhu ren*] administrative way of thinking.

Shi also outlined several problems with newspapers and periodicals that are publishing legally, including:

- *Orientation problems:* Shi said that a minority of newspapers and periodicals have exhibited "political orientation problems," and continuously test government regulators' ["political acumen"](#). According to Shi, orientation problems include: "denying the leading position of Marxism," "violating the Party's line," ["divulging state secrets"](#), ["jeopardizing national security"](#), "harming the nation's interests," and "openly smearing the Party's leaders."
- *Content problems:* Shi said that some newspapers and periodicals have inappropriate ideas about how to conduct investigative reporting (sometimes referred to as ["public opinion supervision reporting"](#)). According to Shi, investigative reporting must "serve the work of the Party and the government," but that some publishers have "long-standing mistaken ideas" and "go after news without considering the severe negative social consequences that it may produce, believing that this is freedom of the press."

Shi said that China's newspaper and periodical regulatory system remains underdeveloped, and that the government has been unable to stop illegal publishing activities despite having ["shut down a large number of illegal newspapers and periodicals"](#). Shi also complained that, despite [strict government prohibitions on private and foreign investment in newspaper and periodical publishing](#), people continue to "illegally enter the newspaper and periodical publication domain." Shi claimed that this represented a [threat to the security of China's culture](#), and that authorities must "adopt measures to resolutely stop this." According to Shi, illegal publishers are ["disrupting the order of the newspaper and periodical market"](#) and represent "a serious threat" to the Party's ability to use propaganda to influence ideology.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20060101&show=ALL#id30921>

Xinjiang Government Promotes Mandarin Chinese Use Through Bilingual Education

The Xinjiang Uighur Autonomous Region (XUAR) government and the region's Communist Party Committee convened a meeting on elementary and middle school bilingual education on December 4, according to a Xinjiang City News [report](#) posted December 5 on the Tianshan Net Web site. Ismail Tiliwaldi, Chairman of the XUAR government, stressed the importance of bilingual education in fostering the economic and social development of minority groups. He outlined two approaches for improving bilingual competency among ethnic minorities: strengthening skills from childhood through bilingual pre-school education, and raising the quality of the teaching staff in the XUAR. Tiliwaldi called for better bilingual skills among pre-school students by combining ethnic minority students with Han students in schools that place primacy on instruction in Mandarin Chinese. The article reported that the region will launch a comprehensive plan for promoting bilingual pre-school education in 2006, as well as begin a construction project for 50 combined ethnic minority-ethnic Han schools.

Nur Bekri, XUAR Party Committee Vice Secretary, noted that, to augment the region's bilingual teaching corps, each district in the XUAR may relax recruiting standards for bilingual Han students and minority students who have had a Mandarin-language education (called "minkaohan" students in Mandarin). In addition, the government plans to give special consideration in cadre appointments and promotions to individuals who encourage bilingual education, the article reported. Bekri also discussed a new teaching assistantship program that, starting in September 2006, will place selected bilingual students and "minkaohan" students in basic-level bilingual schools to carry out at least four months of teaching practice.

As noted in the sections on "[Language Policy](#)" and "[Rights Violations in Xinjiang](#)" in the CECC 2005 [Annual Report](#), upward social, economic, and political mobility among minorities increasingly depends upon their ability to use Mandarin Chinese. Government language policies in the XUAR, however, have infringed upon the right of minorities to use and develop their own language, as provided for in China's [Regional Ethnic Autonomy Law](#) (REAL) (passed in 1984 and amended in 2001). In the specific area of education, Article 37 of the REAL stipulates that "[s]chools (classes) and other educational organizations recruiting mostly ethnic minority students should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction." Linguistic anthropologist Arienne M. Dwyer observed in a 2005 paper entitled [The Xinjiang Conflict: Uyghur Identity, Language Policy, and Political Discourse](#) that bilingual education in the XUAR has been focused on transitioning students from using their native language in school to using Mandarin Chinese. Media reports illustrate this policy focus. According to a Xinjiang Daily [article](#) posted on December 7 on Tianshan Net, many bilingual programs have moved from offering only math and science classes in Mandarin to teaching the entire curriculum in Mandarin, except in classes devoted specifically to minority-language study. Dwyer writes that until the mid-1990s, education in minority schools consisted of full instruction in an ethnic minority language, with only the academic subject of Mandarin taught in that language.

The number of bilingual classes in the XUAR has increased in recent years. According to statistics cited in the Xinjiang Daily article, in 1999 experimental bilingual classes were available in 27 middle schools and reached 2,629 students. By the end of 2004, some 52 middle and elementary schools supported 946 bilingual classes for 35,948 students. Figures for 2005 show the number of classes has increased to 4,505, and the number of students to 145,000. The article noted that bilingual education has already expanded to the pre-school level and has spread to rural areas. The 2005 State Council [Provisions on Implementing the Regional Ethnic Autonomy Law](#) support such an increase. The provisions affirm the freedom to use and develop minority languages, but also place emphasis on the [use of Mandarin](#) by promoting bilingual education and bilingual teaching staff.

Government efforts to limit minority language use, especially Uighur use, have intensified since 2001, as noted in the CECC 2005 Annual Report. In May 2002, the XUAR government announced that Xinjiang University would change its medium of instruction to Mandarin Chinese in first- and second-year classes. In March 2004, the government announced a plan to combine 50 ethnic minority schools with Han schools by 2009 and give preference to Mandarin as the medium of instruction. Despite a severe shortage of teachers in the XUAR, the government is forcing teachers with inadequate Mandarin Chinese out of the classroom. Party Secretary Wang Lequan noted in April 2005 that XUAR authorities are "resolutely determined" to promote Mandarin language use, which he found "an extremely serious political issue." The government has favored Mandarin speakers when setting school admission requirements and in hiring government personnel.

Language restrictions in the XUAR have coincided with government restrictions on religious and cultural freedoms. The CECC 2005 Annual Report observed that these policies, as well as government-supported Han migration into the area and the promotion of economic policies that disproportionately benefit the Han, have increased Uighur resentment and fears of cultural assimilation.

Qinghai-Tibet Railway Passenger Service to Begin in July 2006, Six Months Early

Zhang Shuguang, Director of the Transportation Bureau of the Ministry of Railways, announced that the Qinghai-Tibet railroad will begin commercial operation on July 1, 2006, according to December 12 articles in [Xinhua](#) and [China Daily](#). Zhang said that direct connection to the new railway line will be available at Beijing's West Railway Station from July 1, according to Xinhua, and that other Chinese cities, including Shanghai, Guangzhou, and Chengdu, will launch direct railway passenger service to Lhasa on July 1.

The new timetable appears to be a six-month advance in the starting date for passenger service on the Qinghai-Tibet railway, and earlier than Minister of Railways Liu Zhijun disclosed in March 2005 [remarks](#) reported by Xinhua. Liu said that "trial operation" of the railway would begin on July 1, 2006. Passenger service to Xining and other Chinese cities would be available "after it opens to traffic" in 2007, according to the report. An October 15 China Daily [article](#) on the [completion of track-laying](#) also indicated that commercial passenger transportation would start in 2007, saying, "Once signaling and track testing is completed in the next 15 months, it will be possible to travel from Beijing to Lhasa in 48 hours."

Chinese news media reports do not explain why the Railways Ministry moved up the date for starting the passenger service, or if the period of track and signal testing will be completed before commercial passenger transportation begins. According to the October China Daily report, the project will cost an estimated 33 billion yuan. This project not only is the most expensive infrastructure project in any Tibetan area of China, but also has the greatest potential to affect Tibetans and their culture. The China Daily report acknowledged that the railway will "attract tourists, traders, and ethnic Chinese settlers" to the region.

See Section VI - "Tibet," [Culture, Development, and Demography](#), of the CECC 2005 Annual Report for more information on the Qinghai-Tibet railway and related issues.

Banking Regulator Opens Seven Cities to Local Currency Business by Foreign Banks

The [China Bank Regulatory Commission \(CBRC\)](#) announced (in Chinese) on December 5 that foreign banks may apply to conduct local currency business in the cities of Shantou, Ningbo, Harbin, Changsha, Lanzhou, Yingzhou, and Nanning. The State Council Information Office published the CBRC announcement.

The [services schedule](#) to China's WTO accession package contains an agreement to open specific cities to local currency business by foreign banks during each year after accession. The schedule requires the Chinese government to permit foreign banks to conduct local currency business in Shantou and Ningbo, as well as Shenyang and Xi'an, by December 11, 2005. The government opened the latter two cities for this purpose in December 2004, according to a [report](#) from the Hong Kong Trade Development Council. The WTO accession commitments did not list the other five cities in the announcement specifically, but all geographic limitations on foreign banks doing local currency business must end by December 11, 2006.

On the same day, the Chinese government's chief banking regulator reaffirmed that China would fulfill its WTO commitments on opening up the financial services sector on schedule in 2006, according to a December 5 Agence France-Presse (AFP) [report](#) carried in the South China Morning Post. Liu Mingkang, the Chairman of the CBRC, also announced that the Chinese government will stop injecting capital into commercial banks to cover losses, a practice used to make the banks more attractive to investors before an initial public offering. Although not a specific WTO commitment, ending the practice of covering bank losses would make the Chinese banking system more independent and accountable.

Xinjiang Communist Party Official Promoted to Acting Secretary of the Tibet Autonomous Region

The Communist Party Central Committee appointed Zhang Qingli, Deputy Secretary of the Party Committee of the Xinjiang Uighur Autonomous Region (XUAR), and commander of the [Xinjiang Production and Construction Corps](#) (XPCC), to be the acting Party secretary of the Tibet Autonomous Region (TAR) Party Committee, according to a November 27 Reuters [report](#). Zhang replaces Yang Chuantang, who [suffered a stroke in November](#) after [taking over as the TAR Party secretary](#) in December 2004. Analysts consider Zhang an ally of President Hu Jintao through his service in the Communist Youth League from 1979-1986, according to a November 28 South China Morning Post [report](#) (registration required). The Party posted Zhang to Gansu province in 1998, where he was secretary of the Lanzhou Party Committee (Gansu Daily, in [FBIS](#) 30 May 99), and thereafter was transferred to the XUAR as commander of the XPCC in October 1999 (Gansu Daily, in [FBIS](#) 27 May 99), according to an Online biography available on [China Vitae](#).

Zhang's tenure in the XUAR coincides with a period of Chinese government repression of the human rights of ethnic Uighurs. (See the CECC 2005 Annual Report, [Rights Violations in Xinjiang](#).) The U.S. Department of State's [Country Reports on Human Rights Practices - 2004](#) describes how government authorities in Xinjiang do not distinguish between violent crime and the peaceful exercise of legitimate human rights:

Because authorities in Xinjiang regularly failed to distinguish carefully among those involved in peaceful activities in support of independence, "illegal" religious activities, and violent terrorism, it was often difficult to determine whether particular raids, detentions, arrests, or judicial punishments targeted those seeking to worship, those peacefully seeking political goals, or those engaged in violence.

Zhang explained the XPCC's role in a March 2004 People's Daily [Web site interview](#) (in Chinese) and in a November 2004 South China Morning Post report ([FBIS 08 November 04](#)):

As long as we have enemies in the world who want us dead, as long as Xinjiang has separatists and religious extremists causing trouble, the corps will live forever. It has two roles, to open up wasteland [to agriculture] and protect the frontiers, both an aspect of national security. In peacetime the farming role becomes more important, and in times of tension the security role is more important. The two roles are inseparable.

The XPCC strategy relies in part on promoting immigration of ethnic Han into the XUAR by providing jobs and housing on a large scale. For example, in April 2005, 9,000 workers from Han-populated poor counties in Gansu, Zhang's former post, accepted "long-term contracts" to work on XPCC farms in the XUAR, despite high levels of unemployment among local Xinjiang minorities living near the farms, according to an April 21 Gansu Daily report cited in the [CECC 2005 Annual Report](#). Government-sponsored Han migration to minority areas has exacerbated ethnic tensions in areas like the XUAR and the TAR.

Zhang takes charge in the TAR amidst Tibetan concerns that the Qinghai-Tibet railway, a key project of the [Great Western Development](#) program, will lead to large increases in Han migration. [Workers completed the tracks](#) for the railway in October and full-scale operation is due in 2007. Great Western Development aims to accelerate economic development in China's poorer western area and promote the integration of diverse cultures like Uighurs and Tibetans into the Han-dominated mainstream. The [Regional Ethnic Autonomy Law](#) (REAL) claims in its Preamble to reflect "the state's full respect for and guarantee of ethnic minorities' right to administer their internal affairs," but implementation of the REAL is weak in practice. See [Section III\(a\)](#) - "China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law" of the CECC 2005 Annual Report for more information on minority issues and the system of regional autonomy.

SIPO Publishes Compulsory Licensing Measures for Drugs to Treat Infectious Diseases

The [State Intellectual Property Office \(SIPO\)](#) issued the [Measures for Carrying Out Compulsory Licensing of Patents on Issues Involving Public Health](#) on November 29. The Measures permit government ministries to apply to SIPO for a compulsory license for patented pharmaceutical products that treat or prevent AIDS, tuberculosis, malaria, or other infectious diseases. In addition, WTO member governments that lack the capacity to produce sufficient quantities of these pharmaceuticals, or non-WTO members that are classified as "least developed countries," may request that SIPO grant a compulsory license to produce these products in China, provided they are exported only to the requesting country. The Measures implement a [World Trade Organization \(WTO\)](#) decision on intellectual property protection for pharmaceuticals that permits the governments of countries facing public health crises, such as high rates of AIDS, tuberculosis, and malaria, to issue compulsory licenses for drugs that can treat or prevent those diseases.

The Measures require the licensee to pay a reasonable royalty to the patent holder. [Article 31](#) of the WTO [Agreement on Trade Related Aspects of Intellectual Property Rights \(TRIPs Agreement\)](#) permits WTO Members to have a legal process for issuing a license of patented products for domestic production and consumption without permission from the patent holder in certain circumstances. The WTO General Council's [Decision on Implementation of Paragraph Six of the Doha Declaration on the TRIPs Agreement and Public Health \(Decision\)](#) permitted the governments of countries without adequate pharmaceutical manufacturing capacity to ask that other WTO members produce pharmaceuticals to address public health crises and export them to the requesting country. The Measures explicitly implement both the terms of Article 31 of the TRIPs Agreement and the Decision. The Measures incorporate the Decision's instruction to provide for a reasonable royalty, but do not limit production under such compulsory licenses to only that amount necessary to respond to the crisis, as contemplated by the Decision. Director General Yin Xintian of SIPO's Department of Treaty and Law explained in a December 5 [interview](#) (in Chinese) with the Intellectual Property Law News that the Measures do not require SIPO to consider the amount of the royalty when determining whether or not to grant the compulsory license. If the parties cannot agree on a royalty, however, SIPO will set the royalty amount. Yin also clarified that the Measures permit parallel imports of patented products produced legitimately outside China without permission from SIPO.

With the introduction of the Measures, China becomes only the fourth WTO Member to adopt national measures incorporating the Decision, according to a December 14 [article](#) (subscription required) in Inside U.S.-China Trade. During the week of December 12, Swiss pharmaceutical company Roche Holding AG licensed the Shanghai Pharmaceutical Group to make a version of Tamiflu, its anti-influenza medication, to treat avian influenza. According to the Inside U.S.-China Trade article, the Chinese government would have produced a generic version of Tamiflu if the parties had not reached agreement on the terms of the license. The Measures provide the legal basis for SIPO to issue a compulsory license to permit such generic production.

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